

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Richard L. & Mary L. Zimmerman,
Petitioners-Appellants,

v.

Warren County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-91-0332
Parcel No. 48-855-01-0020

On June 4, 2012, the above captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants Richard L. and Mary L. Zimmerman were self-represented. The appeal was originally scheduled for hearing on June 4, 2012; however, Zimmermans requested this Board change the appeal to a written consideration. County Attorney John Criswell is legal counsel for the Warren County Board of Review. The Appeal Board having reviewed the record and being fully advised, finds:

Findings of Fact

Richard and Mary Zimmerman are the owners of a residential property located at 1300 S G Street, Indianola, Iowa. The site is improved with a 1440 square-foot metal pole building built in 2000. There is also an “old shed” of no value. The site is 12.010 acres. The property record card indicates the subject was reclassified from agricultural to residential in 2004.

The Zimmermans protested to the Warren County Board of Review regarding the 2011 assessment of \$46,500, which was allocated as follows: \$30,000 in land value and \$16,500 in dwelling¹ value. Their claim was based on the following grounds: 1) that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section

¹ Although noted on the property record card as a “dwelling,” we believe it would be more appropriately noted as an “improvement.”

441.37(1)(a); and 2) that the property was assessed for more than the value authorized by law under section 441.37(1)(b). They asserted the correct value was \$27,200, allocated as \$10,800 in land value and \$16,400 in dwelling value.

The Board of Review denied the protest.

The Zimmermans then appealed to this Board reasserting their claims and asserting the correct value is \$27,200, which was the same value as the 2011 assessment.

Zimmermans' evidence is scant. One comparable for equity purposes was offered to the Board of Review. The comparable, located in Cavitt Creek Estates, is a 16.580 acre site with three structures totaling 1188 square feet. The structures were all built in 1950 and have no assessed value. The total assessment of \$23,200 is attributed entirely to the site. We also note the Cavitt Creek comparable has 30% economic obsolescence, whereas the subject site is rated as above normal. Since the Zimmermans offered only one equity comparable in the assessment jurisdiction (Warren County), their equity complaint is not supported.

The Zimmermans did not offer any evidence of the correct market value for the subject property.

The Board of Review did not offer any evidence.

Based on the foregoing, we find insufficient evidence has been provided to demonstrate the subject property is inequitably assessed or over-assessed.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the

property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

Further, only one property was offered as an equity comparable. The Iowa Supreme Court has interpreted “representative number of comparable properties” to be more than one property.


Maxwell v. Shiver, 257 Iowa 575, 581, 133 N.W.2d 709, 712 (1965). This “statutory requirement is both a jurisdictional prerequisite and an evidentiary requirement for bringing a claim of inequitable or discriminatory assessment before the board.” *Montgomery Ward Dev. Corp. by Ad Valorem Tax, Inc. v. Cedar Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992). The word “shall” as used in the statute makes the listing of comparable properties mandatory as failing to do so would “directly frustrate[] the sole function of the requirement, which is to enable the board to make a preliminary determination on the matter of equitability of assessment.” *Id.* The Zimmermans did not show inequity under the tests of *Maxwell* or *Eagle Foods*.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Zimmermans did not establish the correct market value of the subject property.

We therefore affirm the assessment of Richard L. and Mary L. Zimmerman’s property.

THE APPEAL BOARD ORDERS the assessment of Richard L. and Mary L. Zimmerman’s property located at 1300 S G Street, Indianola, Iowa, of \$46,500, as of January 1, 2011, set by the Warren County Board of Review, is affirmed.

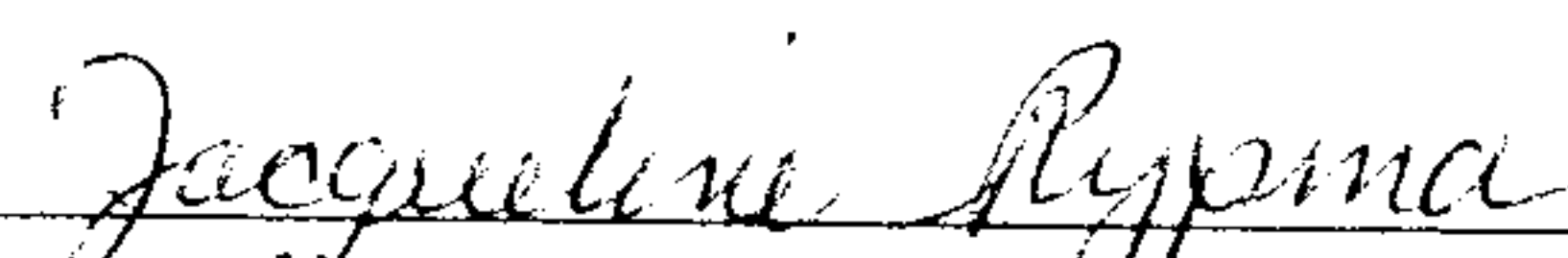
Dated this 3 day of August, 2012.



Karen Oberman, Presiding Officer



Richard Stradley, Board Chair

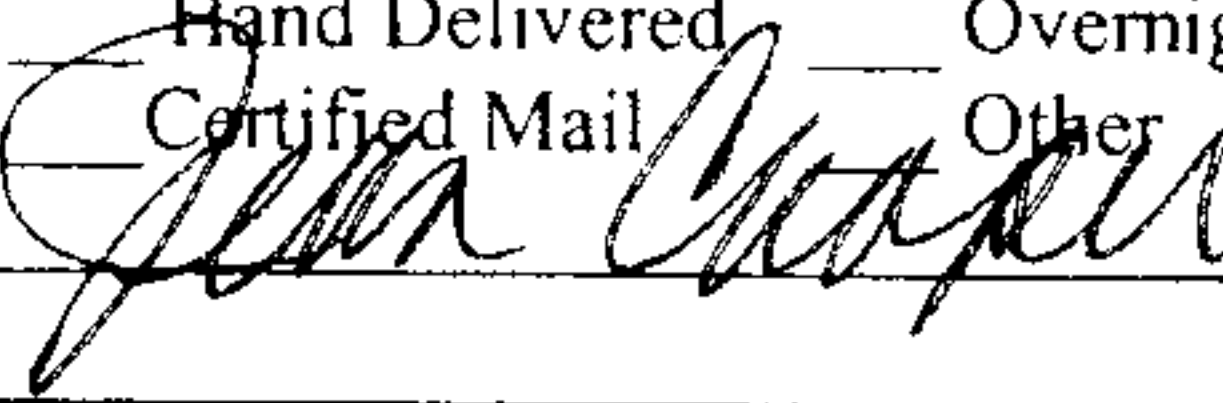


Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8-3</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u></u>